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IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

NO. 83-1101

MARK DAVID NILES,
Petitioner

versus

THE UNIVERSITY INTERSCHOLASTIC LEAGUE, et al.,
Respondents

PETITIONER'S REPLY

HOFHEINZ, HARPOLD, MCDONALD & FITZGERALD
LEW W. HARPOLD
ANTHONY D. SHEPPARD
One Greenway Plaza East,
Suite 820
Houston, Texas 77046-0195
(713) 626-8060

Attorneys for Petitioner
Mark David Niles

Alpha Law Brief Co., Inc.—5606 Parkersburg—Houston, Texas 77036—223-3003

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To The Honorable Supreme Court of the United States:

Petitioner, Mark David Niles, hereby replies to the Respondents' Brief in Opposition as follows:

ISSUE OF ALLEGED MOOTNESS

The Defendants raised the issue of mootness in the Circuit Court below and that Honorable Court correctly disposed of it by footnote as set forth in Petitioner's Appendix A herein at the bottom of page A-7, to-wit:

> ". . . Niles has graduated from high school, and mootness has been urged . . . Niles has sought money damages. This case is therefore not moot."

Furthermore, the young Petitioner has sought attorney's fees as allowed in law, and injunctive relief based upon

the Plaintiff's claims was granted by the District Court and such action by the trial court was in all ways correct. Petitioner's causes of action are patently not moot.

ALLEGED ISSUE OF PARTIES

Respondent's Opposition filed herein does not address the facially urgent issue before the Honorable Supreme Court. The Petitioner, David Niles has stated Federal causes of action and the Co-Plaintiff, Mr. Les Mattinson has done as well. The Honorable District Court simply dismissed the whole cause via his summary order, as he erroneously believed he had no power to hear any portion of the case. The Court of Appeals, after conceding jurisdiction, did not remand the case for further action because the Panel was of the erroneous opinion that the Plaintiffs had failed to state any Federal causes of action, whatever, even under the obvious assumption, that all of the sworn allegations of the Plaintiffs' last complaint were true. Justice Jolly was in error when he and his Honorable Panel issued the ex parte stay of the Trial Court's preliminary injunction and he was wrong in the conclusions set forth in his opinion for the ruling Panel challenged at bar. When this case is duly reversed and remanded to the Honorable District Court for all action not inconsistent therewith, the Plaintiff, Les Mattinson, will be taken out of his present state of technically conjured limbo and allowed to proceed with young Niles to prove their causes by a preponderance of the evidence as allowed in law. The Petitioner, Niles, and the Co-Plaintiff, Les Mattinson, have both stated Federal causes of action herein under oath, and none of the cases cited by the Respondents favor the apparently urged "Catch 22" as to both such proper parties.

Furthermore, Respondents are apparently asserting obliquely through their list of interested parties that other duly named and appearing Defendants are not before the Honorable Supreme Court. All of the named Defendants have not appeared by written answer in the District Court because The Motion to Dismiss filed in lieu of Defendants' answer was erroneously granted, but Federal causes of action have been rightfully asserted herein against all named Defendants, and they are all obviously before the Honorable Supreme Court whether duly listed herein by the opposition or not.

CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner, Mark David Niles, requests that the Honorable Supreme Court grant a writ of certiorari to review the Opinion and Judgment of the United States Court of Appeals for the Fifth Circuit, and to thereafter, in due course, reverse the cause and remand same to the District Court for all actions not inconsistent therewith.

Respectfully submitted,

HOFHEINZ, HARPOLD, MCDONALD
& FITZGERALD

LEW W. HARPOLD

By: _____
ANTHONY D. SHEPPARD
One Greenway Plaza East,
Suite 820
Houston, Texas 77046-0195
(713) 626-8060

Attorneys for Petitioner
Mark David Niles

CERTIFICATE OF SERVICE

The undersigned attorney of record for Petitioner hereby certifies that he did on the 8th day of February, 1984, deposit a true and correct copy of Mark David Niles' Reply, above set forth, in the United States Mail, certified mail, return receipt requested to each attorney of record for Respondents, named herein as follows:

Hon. John L. Darrouzet
Office of the General Counsel
The University of Texas System
201 West Seventh
Austin, Texas 78701

Hon. Jim Mattox
Attorney General of Texas

Hon. Lou McCreary
Assistant Attorney General

Hon. Robert W. Gauss
Assistant Attorney General
State and County Affairs Division
Supreme Court Building
P. O. Box 12548
Austin, Texas 78711-2548

Hon. Lucius D. Bunton
Hon. Margaret A. Cooper
Bunton, Nolan, Odé & Cooper
511 West Seventh Street
Austin, Texas 78701

WITNESS MY SIGNATURE this 8th day of February, 1984.

ANTHONY D. SHEPPARD